

SENATE BILL REPORT

EHB 1744

As Passed Senate, March 1, 2022

Title: An act relating to collaborative arrangements between institutions of higher education and nonprofit private entities that provide comprehensive cancer care.

Brief Description: Concerning collaborative arrangements between institutions of higher education and nonprofit private entities that provide comprehensive cancer care.

Sponsors: Representatives Dolan, Harris, Leavitt, Senn, Ryu, Johnson, J., Chambers, Davis, Macri, Corry, Tharinger, Valdez and Frame.

Brief History: Passed House: 2/14/22, 97-0.

Committee Activity: State Government & Elections: 2/18/22, 2/23/22 [DP, DNP].

Floor Activity: Passed Senate: 3/1/22, 48-1.

Brief Summary of Bill

- States that a comprehensive cancer center that enters into a collaborative arrangement with an institution of higher education is not a state agency or state employer, and the employees of such comprehensive cancer center are not state employees nor have any right or entitlement to any benefits conferred upon state employees, if certain criteria are met.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Majority Report: Do pass.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Wilson, J., Ranking Member; Hawkins.

Minority Report: Do not pass.

Signed by Senator Hasegawa.

Staff: Melissa Van Gorkom (786-7491)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: Comprehensive Cancer Centers. A comprehensive cancer center is a cancer center that is officially recognized by the National Cancer Institute (NCI) as a comprehensive cancer center that qualifies as an exempt charitable organization under the federal Internal Revenue Code.

There are 71 NCI-designated cancer centers nationwide. In Washington, the Fred Hutchinson/University of Washington Cancer Consortium is designated as a NCI comprehensive cancer center. This comprehensive cancer center is a collaboration among four partner institutions: the Fred Hutchinson Cancer Research Center, the University of Washington, Seattle Children's Hospital, and the Seattle Cancer Care Alliance.

Designation as a Public Agency. In 1999, a Washington Court of Appeals adopted the following four-factor balancing test to determine whether an entity is the functional equivalent of a public agency for a given purpose:

- whether the entity performs a governmental function;
- the level of government funding;
- the extent of government involvement or regulation; and
- whether the entity was created by government.

Establishment of an Employer-Employee Relationship. Employment standards and benefits generally apply only if an employer-employee relationship exists. For various benefits and tax purposes, there are a variety of multipart tests used to determine whether an employer-employee relationship is established. Some factors that courts have consistently considered across most of the tests are the nature and degree of control over the worker, the power to hire or fire the worker, the power to determine wages, and the degree of control over the working environment.

Summary of Bill: Designation as a Public Agency. A comprehensive cancer center that enters a collaborative arrangement with an institution of higher education is not a state agency, state employer, quasi-government entity, functional equivalent of a state agency, subject to any obligation or duty of a state agency or state employer, or subject to state or local laws specifically applicable to state agencies solely as a result of that entity's status as a state agency if the comprehensive cancer center:

- does not perform an exclusively governmental function;
- does not receive a majority of its operations funding from the state;
- is not subject to day-to-day management by any state entity; and
- is not created solely by a state entity.

Establishment of an Employer-Employee Relationship. Employees of a comprehensive cancer center that enter into a collaborative arrangement with an institution of higher education are not state employees nor have any right or entitlement to any benefits conferred upon state employees if the institution of higher education does not:

- directly exercise employer management over a comprehensive cancer center;
- solely determine the compensation, benefits, and working conditions of the

- comprehensive cancer center employees; or
- engage in collective bargaining or other discussions with the exclusive bargaining representatives of the employees of a comprehensive cancer center.

Definitions. A collaborative arrangement is as a written arrangement between a comprehensive cancer center and an institution of higher education, through which the cancer care programs of the comprehensive cancer center and institution of higher education will be aligned and managed.

The definitions of agency and employer do not include a comprehensive cancer center that enters into a collaborative arrangement with an institution of higher education and is operated in conformance with the criteria above for the purpose of the Public Records Act, audit of state agencies, Washington public employees' retirement system, public employees' and state collective bargaining, Open Public Meetings Act, procurement of goods and services by the state, State Civil Service Law, Fair Campaign Practices Act, and ethics in public service statutes.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: We have long collaborated to improve cancer care, including forming the cancer care alliance. Complexity of the operations makes it difficult to provide the best care for patients. The Fred Hutchinson Cancer Research Center is an independent, private, not-for-profit organization that would clinically integrate the current cancer programs at University of Washington medicine and the Seattle Cancer Care alliance with the aim of fueling research and providing better patient care. Together we receive \$100 million per year in federal funding, which could be jeopardized if the new cancer center were deemed a state or public entity. This bill will help reduce ambiguity related to our continued status as an independent entity. This collaborative relationship is essential to providing the level of care, research, and education. This will have a direct positive impact on cancer care. This state can play a pivotal role in realizing the vision of patient care.

Persons Testifying: PRO: Dr. Bruce Clurman, Fred Hutchinson Cancer Research Center; Dr. Tim Dellit, UW Medicine; Dr. Nancy Davidson, Seattle Cancer Care Alliance.

Persons Signed In To Testify But Not Testifying: No one.